

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff/Respondent,)	
)	
vs.)	NO. 2:13-cr-81
)	2:16-cv-395
STEVEN BORCHERT,)	
)	
Defendant/Petitioner.)	

OPINION AND ORDER

This matter is before the Court on the Motion to Proceed in Forma Pauperis, filed by pro se Plaintiff, Steven Borchert, on April 12, 2017 (DE #99).

Borchert indicates he is appealing two orders. First, he is appealing this Court's order dated January 30, 2017 (DE #94), denying his section 2255 motion to vacate the judgment that was entered on April 23, 2014. Second, he is appealing this Court's order dated March 7, 2017 (DE #97), dismissing Borchert's motion to alter the judgment under Federal Rule of Civil Procedure 59(e).

"An appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3). As explained in this Court's order denying the section 2255 motion (DE #94), Borchert's section 2255 was not timely filed, and the alleged "newly discovered evidence" of a recent tax audit simply did not show that Borchert's tax loss was

zero, or that his filing "0" tax returns was not false. This Court specifically addressed Borchert's arguments, reviewed the documents submitted in the supplemental filings, and directly rejected Borchert's contention that the paperwork showed he was really innocent of filing false tax returns. Additionally, this Court found that Borchert's motion under Rule 59 was really a merit-based attack on the Court's previous ruling, and the Court therefore dismissed it as an unauthorized successive motion within the meaning of section 2255. (DE #97.)

In the present motion, Borchert improperly raises for the first time an argument under Rule 33, and also improperly raises for the first time the argument that his "self-representation at trial fundamentally deprived [him] of constitutional safe guards." (DE #99 at 2.) This appeal is not taken in good faith because no "reasonable person could suppose that the appeal has some merit." *Walker v. O'Brien*, 216 F.3d 626, 632 (7th Cir. 2000).

For the reasons set forth above, the motion for leave to proceed *in forma pauperis* on appeal (DE #99) is **DENIED**.

DATED: April 19, 2017

**/s/ RUDY LOZANO, Judge
United States District Court**